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*Claims General*

FBW

Attention: [REDACTED]  
2266 Que Building  
General Counsel

25X1A

10 November 1948

Finnish Claims

*no distribution*

1. I called Mr. Graham Morrison, Assistant Attorney General in Charge of Claims, to raise the general question of payment of claims arising out of OSS wartime activities and the effect upon them of subsequent treaties waiving claims against the United States. He said the responsibility for these claims was in his division and that he would refer me to his Assistant in Charge, Colonel Edward Fell, who handles, particularly, all the Court of Claims cases.

2. I spoke to Mr. Fell in connection with the OSS claims from Italy and the Italian Peace Treaty. He immediately drew the parallel of claims from Finland, Latvia, Estonia, and Lithuania and particularly mentioned the Finnish claims. These last involve a unique situation, which he voluntarily described to me at length over the phone as follows.

3. The Finnish Treaty was negotiated between Great Britain, Finland, and Russia. The U. S. apparently was kept advised on negotiations and presumably made suggestions but was not and is not now a party to any treaty with Finland arising out of World War II, as it was never technically at war with Finland. In the treaty, however, the British included a clause which was in effect a waiver of any claims by Finnish nationals against the U. S. Colonel Fell stated that he has been unable to find any precedent for this situation where one nation's interests are taken care of in a treaty between two other nations, one of which is directly affected. Therefore, so far as the Department of Justice is concerned, it has money available for payment of Finnish claims and is itself interested only in ascertaining the exact amount due to individual claimants. They have also the specific statement of policy from the Secretary of State that the State Department does not wish the U. S. to avail itself of a treaty protection to impair the rights of Finnish citizens.

In the opinion of the Department of Justice under these circumstances, the answer to the solution of this problem is purely political. The treaty power of the U. S.

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lies in the President and the Senate. However, these authorities have not and will not in all probability take action in regard to a Finnish treaty. The Secretary of State is, of course, the President's representative in so far as foreign affairs are concerned and has great freedom of action outside of legal restrictions which may be imposed by the Constitution, U. S. Statutes or treaties. Consequently, Justice has been unable to determine what effect the statement of policy from the Secretary of State has on the protection against claims involved in the treaty between Great Britain, Russia, and Finland, and Justice believes that the answer will probably have to be given by the President.

4. The above unique situation amply explains the lack of action in settlement of the claims in which we are interested. There is no doubt that Justice is willing and able to make a fair settlement and has the cash therefor, if it can get clear instruction from adequate authority, which in this case appears to be the President. I am inclined to agree with Justice that the question is not a legal one. Legally, there is no privity between Finland and the U. S. on the claims waived, and it could be disregarded as being of absolutely no effect. If, however, for political reasons we wish not to accept Finnish claims, we could point to the waiver, and Finland could not constantly make diplomatic representations that the treaty provision was not valid. Since there is every indication that from a political point of view we will want to honor Finnish claims, it is probable that a favorable settlement will be achieved in time, but, the question being unique, it is understandable why so much time has been consumed. Possibly the question was delayed in view of the Presidential election.

5. It is probable that Colonel Fell will explain the situation in detail to the lawyers concerned. I feel there was no security risk in my conversation with Colonel Fell, as it was based solely on the liquidation of OSS, and he volunteered all the above information. I do feel, however, that if this information is passed on to the lawyers concerned, they should not appear too well-informed, as Colonel Fell might tie them up with our conversation. I do not, however, see any objection to passing this on to those specifically interested in this problem.

LRH:mbt

LAWRENCE R. HOUSTON

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